IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1737 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JAGDISHBHAI NELSI SHAH

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 1737 of 2003

MR HARIN P RAVAL for Petitioner No. 1-7

MR SN SHELAT, A.G. with MS MAITHILI MEHTA, A.G.P. for Respondent No. 1-3,5

MR MD PANDYA for Respondent No. 4

CORAM : HON'BLE MR.JUSTICE A.R.DAVE

Date of decision: 23/09/2004

ORAL JUDGEMENT

1. RULE. Service of rule is waived by learned A.G.P. Ms Maithili Mehta for respondents nos. 1, 3 and 5 and by learned advocate Shri M.D. Pandya for respondent no. 4. Looking to the facts of the case, and in pursuance of the request made by the learned advocates, the petition is finally heard today.

2. The petitioners have approached this Court with a prayer that alignment of road no. 16/1 in development plan of Bhachau be varied so as to see that the buildings constructed by the petitioners on the land, which is forming part of road No. 16/1 are not adversely affected.

3. Upon hearing the learned advocates and upon going through the pleadings, it appears that whether the alignment of the road should be varied or not should should be decided by the expert authorities. In the circumstances, it would be just and proper if the petitioners make a representation to respondents nos. 1 and 4 so that respondent no. 4 can consider the contents of the representation and can forward the representation to respondent no. 1 alongwith its remarks so that ultimately, if respondent no. 1 is convinced that variation as proposed by the petitioners is required to be made in the alignment of road no. 16/1, necessary variation can be made by respondent no.1 as per the provisions of Section 19 of the Gujarat Town Planning and Urban Development Act, 1976.

4. The petitioners shall make a representation to respondents nos. 1 and 4 within two weeks from today. It is hoped that respondent no. 4 shall forward the said representation alongwith its remarks to respondent no. 1 as soon as possible and upon receipt of the remarks forwarded by respondent no. 4, respondent no.1 shall take tentative decision preferably within a period of three weeks from the date of receipt of the report alongwith its remarks from respondent no. 4 in accordance with law.

5. In view of the above direction given to respondents nos. 1 and 4, learned advocate Shri Harin P. Raval seeks permission to withdraw the petition. Permission for withdrawal of the petition is granted. The petition stands disposed of as withdrawn. Rule is discharged with no order as to costs.

6. The buildings constructed by the petitioners shall not be demolished for a period of three weeks from the date on which respondent no.4 forwards the

representation to respondent no. 1 alongwith its remarks. Subject to the above direction, ad-interim relief granted earlier stands vacated.

(A.R. DAVE, J.)

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